

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

STORMANS, INCORPORATED, doing
business as Ralph's Thriftway, et al.,

Plaintiffs,

v.

MARY SELECKY, Secretary of the
Washington State Department of Health,
et al.,

Defendants,

and

JUDITH BILLINGS, et al.,

Defendant-Intervenors.

NO. C07-5374 RBL

DEFENDANTS' RESPONSE TO
PLAINTIFFS' OFFER OF PROOF
REGARDING MECHANISM OF
ACTION OF EMERGENCY
CONTRACEPTIVES RELATED TO
THEIR RELIGIOUS BELIEFS

Defendants respond to Plaintiffs' offer of proof regarding the basis for Plaintiffs' religious beliefs (Dkt. #495) and object to the Plaintiffs' inclusion of references and quotes from religious leaders who are not of, or from, Plaintiffs' religions. Defendants also maintain their previously briefed opposition to evidence or references to the mechanism of action for emergency contraceptives. Dkt. #425 (State Defendants' Motion in Limine); Dkt. # 458 (Amended Order Regarding Motions in Limine).

1 In their depositions, each Plaintiff testified that no one in a position of authority in
 2 each of their churches has professed that human life begins upon fertilization of the ovum.
 3 Declaration of Joyce A. Roper In Support of Defendants' Response to Plaintiffs' Offer of
 4 Proof Regarding Mechanism of Action of Emergency Contraceptives Related to Their
 5 Religious Beliefs (Roper Decl.), Exs. 1, 2, 3. Each Plaintiff testified that they have come to
 6 hold this belief from their individualized reading of the Bible and not as a specific tenet held
 7 or taught at their churches. Roper Decl., Exs. 1-3. Defendants object to Plaintiffs now
 8 offering proof contrary to their own testimony by suggesting that their views are aligned with
 9 religious leaders, particularly religious leaders of faiths different than their own.¹

10 Kevin Stormans was a member of a Baptist church and, after filing this suit, changed
 11 to a Nazarene church. Roper Decl., Ex. 3. Mr. Stormans was asked if the belief that life
 12 begins at fertilization is shared by members of his church and he testified that it is a "feeling,
 13 or that's the position I arrived at." Roper Decl., Ex. 3.

14 Margo Thelen described her faith as "nondenominational Christian." Roper Decl.,
 15 Ex. 2. At the time of her deposition, she was attending a Baptist church, however,
 16 acknowledged that she does not "call [her]self a Baptist" and she has previously attended
 17 nondenominational churches and Lutheran churches. Roper Decl., Ex. 2. Ms. Thelen
 18 testified that her understanding about when life began is "partly" through her study of the
 19 Bible. Roper Decl., Ex. 2. Ms. Thelen acknowledged that no one in a position of authority
 20 in her church said that dispensing Plan B was "forbidden or contrary to the faith" which she
 21 follows. Roper Decl., Ex. 2. Nor has her church taught on the subject of when life begins.
 22 Roper Decl., Ex. 2.

23 At the time of her deposition, Rhonda Mesler attended a Baptist church. Roper Decl.,
 24 Ex. 1. Ms. Mesler acknowledged that her pastor has not taught against Plan B or emergency
 25

26 ¹ Plaintiffs quote Pope John Paul II and none of the Plaintiffs are Catholic.

1 contraceptives. Roper Decl., Ex. 1. She said that her belief about Plan B is a personal belief.
2 Roper Decl., Ex. 1.

3 Defendants object to Plaintiffs' Offer of Proof regarding the basis for their religious
4 beliefs, because by referencing "leaders in the religious and scientific communities" and
5 quoting Pope John Paul II, Plaintiffs infer that their beliefs are based on their religious
6 leaders and the teachings of their churches, when each of them testified that these were not
7 the teachings of the churches they attended.

8 RESPECTFULLY SUBMITTED this 7th day of November, 2011.

9 ROBERT M. MCKENNA
10 Attorney General

11 /s/Joyce A. Roper
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CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2011, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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